

REMARKS/ARGUMENTS

Claims 1-8, 12, 35-37, 40-44, 53, and 54 are pending in the application, all rejected. Claims 9-11, 13-34, 38-39, and 45-52 have previously been canceled without prejudice or disclaimer.

I. General Remarks

The claims stand rejected, in whole or in part, over U.S. Patent No. 5,794,212 to Mistr ("Mistr"). Mistr allegedly describes a system and method for efficient communications between energy suppliers, energy purchasers and transportation providers. These entities, also as alleged, are connected to each other and to an Administrator via a communications network, and negotiate for the efficient and reliable movement of energy between the parties.

As elaborated upon below, the Office Action, in reliance on Mistr, fails to carry the heavy burden of proving the pending claims unpatentable. The Office Action has failed to show, for example, that Mistr discloses a sub-system operatively associated with at least one energy coordinating body or energy management system, as most of the claims of the pending application require. The Administrator described in Mistr, which handles database storage of proposed transactions and the sending of invoices, does not meet the definition of the recited "energy coordinating body" or "energy management system" as detailed in the specification of the pending application, e.g., at page 16.

Because Mistr discloses no energy coordinating body or energy management system, there can be no disclosure of a negotiation between such an entity and an energy supplier for an energy supply specification to energy consumers. In Mistr, energy providers and energy buyers deal with each other, and with transmission owners, directly. Mistr does not disclose an energy management system receiving requests from consumers, nor does it disclose negotiation between such a management system and suppliers responsive to any consumer requests for energy. The

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Administrator in Mistr plays no role in negotiating with suppliers on behalf of consumer requests. In fact, the Administrator is only notified of a negotiation after it has been completed.

Mistr also fails to disclose an energy supplier having a plurality of energy sources and a plurality of sub-systems operatively associated with corresponding energy sources. Finally, Mistr fails to teach a processor that executes one routine for exchanging energy planning information and a second routine for negotiating an energy supply specification.

II. Rejections Under 35 U.S.C. §102

Claims 1, 3-8, 12, 35-36, 40-44 and 53-54 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 5,794,212 to Mistr.

i. Claims 1, 3-8 and 12

The language in claim 1 recites, among other limitations, a first sub-system operatively associated with at least one coordinating body and an interface for negotiating an energy supply specification from an energy supplier to energy customers. As stated above, these features are neither disclosed nor suggested by Mistr. Therefore, claim 1 and claims 3-8 and 12, which depend on it, are respectfully submitted to be patentable over Mistr.

ii. Claim 35

Claim 35 recites a first sub-system operatively associated with a first energy management system and a plurality of second subsystems each associated with second energy management subsystems, where the subsystems have interfaces for negotiating energy supply specifications. As stated above, Mistr fails to disclose or suggest an energy management system, as recited in claim 35. Therefore, claim 35 is allowable over Mistr.

iii. Claim 36

Claim 36 recites a first sub-system operatively associated with an energy supplier having a plurality of energy sources and a plurality of second sub-systems, each of said second sub-systems being operatively associated with a corresponding one of said energy sources. As

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discussed in Section I, above, Mistr fails to disclose or suggest an energy supplier having a plurality of energy sources and a plurality of second subsystems associated with the energy sources. Therefore, claim 36 is respectfully submitted to be patentable over Mistr.

iv. Claims 40 and 41

Claims 40 and 41 recite an energy planning system for planning energy supply that comprises a second routine executed by said processor for negotiating an energy supply specification from said energy suppliers to said energy consumers. Mistr allegedly discloses a system to negotiate the movement of energy between parties. Assuming, without conceding this is so, this does not anticipate "negotiating an energy supply specification" as is claimed in the present application and supported on page 16 lines 17 to 31, among other portions of the specification. Therefore, claims 40 and 41 should not be rejected over Mistr.

v. Claims 42 and 43

Claims 42 and 43 recite an energy management system that is neither disclosed nor suggested in Mistr, as discussed above, in connection with claim 35. Therefore, claims 42 and 43 are respectfully submitted to be allowable over Mistr.

vi. Claims 44, 53 and 54

Claims 44, 53 and 54 recite an energy coordinating body that is neither disclosed nor suggested in Mistr as stated above. Therefore, claims 44 and 53 should not be rejected over Mistr.

Claims 1, 3-8, 12, 35-36, 40-44 and 53-54 are therefore submitted to be patentable over the art of record.

III. Rejections under 35 U.S.C. § 103

i. Claim 2

Claim 2 depends from claim 1 and is submitted to be patentable on the same grounds.

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ii. Claim 37

Claim 37 depends from claim 36 and is submitted to be patentable on the same grounds.

Claims 2 and 37 are therefore submitted to be patentable over the art of record.

CONCLUSION

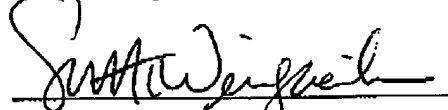
Claims 1-8, 12, 35-37, 40-44, 53 and 54, now pending in the application, for the reasons set forth above, recite patentable subject matter and are in condition for allowance.

Reconsideration and allowance are therefore respectfully requested.

The Commissioner is authorized to charge the fee for the extension of time, as well as any additional required fee, to Deposit Account No. 23-1703.

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Respectfully submitted,



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